IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3275 OF 2005

Premnath Mannengot .. Petitioner

Vs.

Smruti Premnath Manengot and Ors.. Respondents

Mrs.Manjula Rao for the petitioner

Mr.A.A.Shaikh for respondent nos.1 to 3

CORAM : S.U.KAMDAR, J
DATED : 29TH NOVEMBER, 2005

P.C.:

1. By the present petition, issue of jurisdiction has been challenged by the petitioner. The learned trial court has considered the argument of the petitioner and has given a reasoned order. I do not find any error apparent on the face of the said record to hold that the trial court order dt.4.11.04 is perverse.

2. In the present case, petitioner is a resident of Dubai-UAE. Wife is claiming to be the resident of Pune and has filed the marriage petition no.4 of 2004, Pune. In support of her case, he has produced certain documents including

ration card, Ex.B to the petition to show that she is a resident of Pune. The learned counsel for the petitioner contends that she is not a resident of Pune and is a resident of Mumbai. The only evidence which has been sought to be produced is an envelope, on the reverse of which address of Byculla has been mentioned. It is an envelope which has been sent by the respondents to the petitioner at Dubai. It has been contended that on the basis of the said document respondent is resident of Mumbai. However, the learned counsel for the respondents has contended that the respondent is working at J.J.Hospital, Mumbai and is in fact travelling from Pune to Mumbai. Address of Byculla which has been given is that of a relative of respondent i.e. sister of mother and she is residing therein. Respondent has also contended that as and when there is night shift she is utilising the said facility of residing at Mumbai only for the purpose of attending work at night shift in J.J.Hospital where she is working as Nurse. The learned Trial Judge after considering the aforesaid facts and relying upon the provisions of s.31(1)(4) of the Special Marriage Act, 1954 has

come to the conclusion that the petitioner is a resident of Pune and therefore that court has jurisdiction to entertain and try the present Marriage Petition. It is this order which is under challenge. In para 4 of the said order the Trial court has considered the provision of s.31 and has also considered the various documents including the railway pass of the petitioner from Bombay to Kedgaon, children record of the school at Panchgani, progress report of the children, ration card, certificate of Credit Co-op.Society and other relevant documents as well are considered. The trial court has also considered the case of the petitioner that petitioner is using the said premises temporarily during night shift because of her work at J.J.Hospital. The order of Trial Court cannot be treated as either perverse or illegal and does not require any interference by this court under Article 227 of the Constitution of India. Petition accordingly fails and the same is dismissed. No order as to costs. Interim orders, if any, stands vacated. The learned counsel for the petitioner states that the petitioner will deposit arrears of maintenance as directed by the

Family Court within 2 weeks from today. Accordingly, time to deposit arrears is granted of 2 weeks from today.